

HOUSE No. 744

By Mr. O’Flaherty of Chelsea, petition of Eugene L. O’Flaherty for legislation to prohibit the use of certain liability waivers in employment applications and other documents. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO PROHIBIT THE USE OF CERTAIN LIABILITY WAIVERS AS AGAINST PUBLIC POLICY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Chapter 231 of the General Laws, as appearing the 2002 Offi-
2 cial Edition, is hereby amended by inserting after section 85AA
3 the following section:—
4 Section 85BB. Any waiver, disclaimer, exclusion or limitation
5 of liability in an employment application or other document pur-
6 porting to release any third party from liability for injuries or
7 death, whether in tort or contract, to an employee shall be void as
8 against public policy, and no employee or employment applicant
9 shall be required to agree to such waiver, disclaimer, exclusion or
10 limitation of liability as a condition of his or her hiring or con-
11 tinued employment. The term “employee” as used in this para-
12 graph shall be as defined in section one of chapter 152, and shall
13 include dependents of such employee, also as so defined, except
14 that it shall not exclude an independent contractor, or any
15 employee thereof, providing labor or materials to another. Any
16 employer who violates the provisions of this paragraph shall be
17 liable for a penalty equal to two times the average weekly wage in
18 the commonwealth plus the attorney’s fees and costs incurred by
19 the employee in any action involving a determination of the rights
20 of the employee under this section.